

REMARKS

This application has been carefully reviewed in light of the Office Action dated May 4, 2004. Claims 1 to 10, 12, 13 and 186 are in the application, of which Claim 1 is still the only independent claim. Reconsideration and further examination are respectfully requested.

Claims 1 to 13 and 186 were rejected under 35 U.S.C. § 112, first paragraph, for alleged failure to comply with the enablement requirement. In entering the rejection, the Office Action agreed that the allegedly missing material is disclosed in foreign document EP 603,783, but stated that "incorporation of essential material and a specification by reference to a foreign application or patent, or to a publication, is improper." Applicants do not necessarily agree that the material disclosed in EP 603,783 is "essential", but given the invitation in the Office Action to amend the specification, an amendment has been made to page 41. However, rather than expressly incorporating the descriptive material found in EP 603,783, an amendment has been made to insert a reference to a counterpart U.S. issued patent, namely U.S. Patent 5,624,798. Since it is permissible to incorporate even essential material by reference to an issued U.S. patent, it is believed that the above amendment satisfies any lingering doubts over enablement of the claims. The undersigned hereby states that the amendment to page 41 is the material previously stated by the Office Action to be incorporated by reference, and that the amendment contains no new matter. Withdrawal of the rejection under § 112, first paragraph, is respectfully requested.

Claims 1 to 10 were rejected under 35 U.S.C. § 112, first paragraph, for alleged failure to provide an enabling disclosure for the generic chemiluminescent compound set forth in Claim 1. The rejection further indicated that the specification was

enabled for intercalation according to Claim 11. In keeping with this indication, Claim 1 has been amended to include the subject matter of Claim 11, and Claim 11 has been cancelled. It is therefore respectfully submitted that Claims 1 to 10, 12, 13 and 186 are fully in condition for allowance.

The foregoing actions have been taken without prejudice or disclaimer of subject matter, and without conceding the correctness of the rejection of the claims. Accordingly, this should be viewed as an amendment strictly to obtain an earlier allowance of the application, and otherwise as a traversal of the rejections for all the reasons stated in the amendment dated January 30, 2004.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael K. O'Neill". The signature is fluid and cursive, with the first name "Michael" and last name "O'Neill" clearly distinguishable.

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